



**DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

[Docket No. 21-4]

Roozbeh Badii, M.D.; DECISION AND ORDER

On October 15, 2020, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Roozbeh Badii, M.D. (hereinafter, Respondent) of McLean, Virginia. OSC, at 1. The OSC proposed the revocation of Respondent's Certificate of Registration No. FB0526307. It alleged that Respondent is without "authority to handle controlled substances in the State of Virginia, the state in which [Respondent is] registered with the DEA." *Id.* at 2. (citing 21 U.S.C. § 824(a)(3)).

Specifically, the OSC alleged that the Virginia Department of Health Professions (hereinafter, VDHP) issued an Order of Mandatory Suspension on May 12, 2020. OSC, at 2. This Order, according to the OSC, immediately suspended Respondent's Virginia state medical license. *Id.* "The VDHP ruling was issued following its finding, *inter alia*, of a prior ruling by the Maryland State Board of Physicians suspending [Respondent's] medical license in that state." *Id.*

The OSC notified Respondent of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 C.F.R. § 1301.43). The OSC also notified Respondent of the opportunity to submit a corrective action plan. OSC, at 3. (citing 21 U.S.C. § 824(c)(2)(C)).

By letter dated November 19, 2020, Respondent timely requested a hearing.¹ Hearing Request, at 1. According to the Hearing Request, Respondent's Virginia medical license was suspended because the board of medicine in the state of Maryland believed that Dr. Badii practiced medicine while being impaired psychologically and the state of Virginia, "simply rubber stamped the findings of the state of Maryland." *Id.* Respondent's Hearing Request also claimed that "other states do not consider him currently impaired in any capacity," and that Respondent wanted the opportunity to "prove that he is mentally healthy and no current threat to his patients." Hearing Request, at 1 and 2.

The Office of Administrative Law Judges put the matter on the docket and assigned it to Chief Administrative Law Judge John J. Mulrooney II (hereinafter, the Chief ALJ). The Chief ALJ issued an Order and Briefing Schedule dated November 23, 2020. The Government timely complied with the Briefing Schedule by filing a Motion for Summary Disposition (hereinafter, MSD) on December 2, 2020. Order Granting Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision dated December 15, 2020 (hereinafter, Recommended Decision or RD), at 2. In its motion, the Government stated that Respondent lacks authority to handle controlled substances in Virginia, the state in which he is registered with the DEA and argued that, therefore, DEA must revoke his registration. MSD, at 1-2. The Respondent filed his response, "Respondent's Reply Brief" (hereinafter, Respondent's Reply), on December 14, 2020, in which he stated that "[i]n the states where he has no medical license, he is not allowed to prescribe medications to patients in those states. This would include Maryland and Virginia." Reply Brief, at 3. Therefore, he argued that DEA permit him to "transfer the DEA application process to California," where he has an active medical license. *Id.*

¹ The Hearing Request was filed on November 20, 2020. Order and Briefing Schedule, dated November 23, 2020, at 1. I find that the Government's service of the OSC on October 26, 2020, was adequate and that the Hearing Request was timely filed on November 20, 2020. *See also* Recommended Decision, at n.1.

The Chief ALJ granted the Government MSD finding that “the Government has shown that the Respondent does not currently have authority to practice medicine in Virginia,” and that because “the Respondent does not have authority as a practitioner in Virginia, there is no other fact of consequence for this tribunal to decide in order to determine whether or not he is entitled to hold a [Certificate of Registration].” RD, at 5. The Chief ALJ recommended that Respondent’s DEA Certificate of Registration be revoked based on his lack of state authority. RD, at 6. By letter dated January 12, 2021, the Chief ALJ certified and transmitted the record to me for final Agency action. In that letter, the Chief ALJ advised that neither party filed exceptions.

I issue this Decision and Order based on the entire record before me. 21 C.F.R. § 1301.43(e). I make the following findings of fact.

FINDINGS OF FACT

Respondent’s DEA Registration

Respondent is registered with DEA under DEA Certification of Registration number FB0526307 at the registered address of 6193 Adeline Court, McLean, Virginia 22101. MSD, at Exhibit 1. Pursuant to this registration, Respondent is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Respondent’s registration “is in an active pending status until the resolution of administrative proceedings.” MSD, Exhibit 2 (Certification of Registration History).

The Status of Respondent’s State License

On May 12, 2020, the VDHP issued an Order of Mandatory Suspension. *Id.* The VDHP ruling was issued following its finding of a prior ruling by the Maryland State Board of Physicians suspending Respondent’s medical license in that state. MSD Exhibit 3 (VDHP Order of Mandatory Suspension).

According to Virginia’s online records, of which I take official notice, Respondent’s license is still suspended.² Virginia Department of Health Professions License Lookup, <https://dhp.virginiainteractive.org/Lookup> (last visited date of signature of this Order). Virginia’s online records show that Respondent’s medical license remains suspended. *Id.*

Accordingly, I find that Respondent currently is neither licensed to engage in the practice of medicine in Virginia, the state in which Respondent is registered with the DEA.

DISCUSSION

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 Fed. Reg. 71,371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 Fed. Reg. 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C.

² Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding – even in the final decision.” United States Department of Justice, Attorney General’s Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. § 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Respondent may dispute my finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by e-mail to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.usdoj.gov.

§ 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that "[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices." 21 U.S.C. § 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 Fed. Reg. at 71,371-72; *Sheran Arden Yeates, M.D.*, 71 Fed. Reg. 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.*, 58 Fed. Reg. 51,104, 51,105 (1993); *Bobby Watts, M.D.*, 53 Fed. Reg. 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 Fed. Reg. at 27,617.

Respondent argued that because he holds an active medical license in California, he should be able to transfer his DEA registration in Virginia to that state and avoid revocation. I agree with the Chief ALJ that "as has been long established by Agency precedent, state licensure in a state other than a respondent's COR registration state is irrelevant to a DEA enforcement proceeding." RD, at 4 (citing *Craig K. Alhanati, D.D.S.*, 62 Fed. Reg. 32,658, 32,658 (1997)).

Respondent is no longer currently authorized to dispense controlled substances in the Commonwealth of Virginia, the state in which he is registered. Specifically, the Virginia Board of Medicine's decision to suspend Respondent's medical license also means that Respondent is currently without authority to dispense controlled substances under the laws of Virginia. *See, e.g., Va. Code Ann. §§ 54.1–2409.1* (2021) (felony to prescribe controlled substances without a current valid license); *54.1–2900* (2021); *54.1–3401* (2021).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to practice medicine in Virginia. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in Virginia. Thus, because Respondent lacks authority to practice medicine in Virginia and, therefore, is not authorized to handle controlled

substances in Virginia, Respondent is not eligible to maintain a DEA registration. Accordingly, I will order that Respondent's DEA registration be revoked.

ORDER

Pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 824(a), I hereby revoke DEA Certificate of Registration No. FB0526307 issued to Roozbeh Badii.

Further, pursuant to 28 C.F.R. § 0.100(b) and the authority vested in me by 21 U.S.C. § 823(f), I hereby deny any pending application of Roozbeh Badii to renew or modify this registration, as well as any other application of Roozbeh Badii, for additional registration in Virginia. This Order is effective **[insert Date Thirty Days From the Date of Publication in the Federal Register]**.

D. Christopher Evans,
Acting Administrator.

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